STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

HOWARD WILLIAMS,

Defendant-Appellant.

UNPUBLISHED
March 7, 2006

No. 257460
Oakland Circuit Court
LC No. 2004-194797-FH

Before: Cooper, P.J., and Jansen and Markey, JJ.

PER CURIAM.

Defendant was convicted, by a jury, of possession of less than twenty-five grams of cocaine, MCL 333.7403(2)(a)(v). For this offense, the trial court sentenced him to serve one to fifteen years' imprisonment, concurrent with an identical sentence for a plea-based conviction of possession of marijuana, second offense, MCL 333.7403(2)(d); MCL 333.7413(2). Defendant appeals as of right, and we affirm. This appeal is being decided without oral argument in accordance with MCR 7.214(E).

The police approached defendant as he was returning to his parked truck after a check on the truck indicated that its owner was wanted on an outstanding warrant. The police noticed the odor of marijuana in the vehicle, then detained defendant in a patrol car while arranging for a search of the truck. After several minutes, the police took defendant out of the patrol car, then found a plastic bag containing cocaine behind or under the back seat. The search of defendant's truck revealed marijuana.

On appeal, defendant challenges the sufficiency of the evidence to support his conviction, and asserts that the prosecutor denied him a fair trial by eliciting information about his having possessed marijuana. Neither argument has merit.

When reviewing the sufficiency of evidence, we must view the evidence of record in the light most favorable to the prosecution to determine whether a rational trier of fact could find that each element of the crime was proved beyond a reasonable doubt. *People v Herndon*, 246 Mich App 371, 415; 633 NW2d 376 (2001). Review is de novo. *Id.*

"Circumstantial evidence and reasonable inferences drawn therefrom may be sufficient to prove the elements of a crime." *People v Jolly*, 442 Mich 458, 466; 502 NW2d 177 (1993). In this case, a police officer testified that defendant was the only person placed in that car that day,

and that a routine check beneath and behind its back seat car at the beginning of his shift revealed no contraband. Another officer testified that he saw defendant reach into the waistband of his pants, and then stuff his hands into the space where "the bottom of the seat and the back of his seat meet." This testimony constituted solid circumstantial evidence linking defendant to the cocaine found in the patrol car just after defendant had been detained in it.

Defendant proposes alternative interpretations of the evidence, but "'[e]ven in a case relying on circumstantial evidence, the prosecution need not negate every reasonable theory consistent with the defendant's innocence, but need merely introduce evidence sufficient to convince a reasonable jury in the face of whatever contradictory evidence the defendant may provide.'" *People v Hardiman*, 466 Mich 417, 424; 646 NW2d 158 (2002), quoting *People v Konrad*, 449 Mich 263, 273 n 6; 536 NW2d 517 (1995). We find on review de novo that sufficient evidence was presented to support defendant's possession of cocaine conviction.

Defendant draws his prosecutorial misconduct argument from the following exchange between the prosecutor and himself:

Q. Now, you asked to have the baggies fingerprinted; correct?

A. Yes, I did.

Q. You wanted both of them fingerprinted?

A. No. One.

Q. Just the one?

A. Yes.

Q. Okay. Because you knew that there was marijuana in the car?

A. Yes.

Q. And you admit that now?

Defense counsel objected on the ground of relevancy, which the trial court sustained. At issue is whether this inquiry into defendant's marijuana possession denied him a fair and impartial trial. See *People v Truong (After Remand)*, 218 Mich App 325, 336; 553 NW2d 692 (1996). We conclude that it did not.

Although the jury might have regarded defendant as more likely to have possessed cocaine because he possessed marijuana, his apparently unhesitating admission to having possessed marijuana could have bolstered his credibility while denying possession of cocaine. Further, defendant's own momentary admission in this regard added little to the police testimony about noticing the smell of marijuana coming from his vehicle in the first instance. The potential for prejudice was, thus, minimal. A criminal defendant is entitled to a fair trial, not a perfect one. *People v Mosko*, 441 Mich 496, 503; 495 NW2d 534 (1992).

Affirmed.

/s/ Jessica R. Cooper
/s/ Kathleen Jansen
/s/ Jane E. Markey